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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/791,571	03/03/2004	Gilles Soucy	04104-060	3108
56535 7590 05/03/2007 BROUILLETTE & PARTNERS METCALFE TOWER, 1550 METCALFE STREET SUITE 800 MONTREAL, QC H3A-1X6 CANADA			EXAMINER BELLINGER, JASON R	
			ART UNIT 3617	PAPER NUMBER
			MAIL DATE 05/03/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/791,571

Applicant(s)

SOUCY ET AL.

Examiner

Jason R. Bellinger

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 February 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 22-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 22-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Terminal Disclaimer

1. The terminal disclaimer filed on 25 August 2006 disclaiming the terminal portion of any patent granted on this application, which would extend beyond the expiration date of US Patent 6,973,296 has been reviewed and is NOT accepted for the reasons set forth below.
2. The assignee has not established its ownership interest in the application, in order to support the terminal disclaimer. There is no submission in the record establishing the ownership interest by either (a) providing documentary evidence of a chain of title from the original inventor(s) to the assignee and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was, or concurrently is being, submitted for recordation pursuant to 37 CFR 3.11, or (b) specifying (by reel and frame number) where such documentary evidence is recorded in the Office (37 CFR 3.73(b)).

Claim Rejections - 35 USC § 103

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
4. Claims 22-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ishimoto in view of Hori and in further view of Ono. In Figures 1 and 5-6, Ishimoto shows a traction band 7 used on a vehicle at least one sprocket 6. The track 7 is made

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from an elastomeric material and includes an inner surface that faces a road wheel 8 and sprocket wheel 6, and an outer surface that engages the ground. The track 7 includes a longitudinally extending band body, and at least one row of guide horns 64 that protrude from the inner surface. The sprocket 6 does not drivingly engage the guide horns 64.

Ishimoto does not show the traction band including a plurality of road wheels. Hori teaches the use of a vehicle 1 having a traction band 2 with a plurality of road wheels 6 with a sprocket wheel 4 (see Figure 1). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to provide the traction band of Ishimoto with a plurality of road wheels, for the purpose of providing more support for the traction band during operation, dependent upon the weight of the vehicle and the terrain over which the traction band will travel.

Ishimoto also does not show the traction band including reinforcement. In Figures 14-16, Ono teaches the use of a traction band 80 having a body 21 made from an elastomeric material, and having an inner surface 26 to face a plurality of wheels of a tracked vehicle and an outer surface 27 that faces the over which the vehicle travels. At least one row of lugs 23 protrudes from the inner surface, and lug reinforcements 60 embedded within the body 21. Each lug reinforcement 60 includes a sheet-like reinforcing portion 62 that extends into the lugs 23. At least one stabilizing portion 61 is connected to the reinforcing portion 62 and is embedded in the body of the traction band 80. Main tensile cords 22 extend along the circumference of the body of the traction band 80, with the stabilizing portions 61 located between the inner surface of

the body and the cords 22. The reinforcing portion 62 includes longitudinally extending areas (623 & 624) that are parallel planar areas that are included and connected to each other. Each reinforcing portion 62 includes a laterally extending structure 65 that laterally rigidifies the reinforcing portion 62. This structure 65 could be considered an "embossing" on the longitudinally extending areas (623 & 624). Furthermore, this structure 65 is a generally inverted V-shape. The stabilizing portions 61 extend longitudinally. The traction band 80 includes a central longitudinally extending band portion with a lateral band portion on each side of the central portion. The lug reinforcement 60 is a resilient metal plate.

Ono does not specify that the rigid plate of the lug reinforcement is formed from plastic. It is well known in the art that metal elements may be replaced with plastic elements having similar physical properties and characteristics in order to reduce the weight of an assembly without sacrificing strength, etc. Therefore from this teaching, it would have been obvious to one of ordinary skill in the art at the time of the invention to form the lug reinforcements from a plastic having equivalent characteristics to a metal, in order to reduce the weight of the track assembly.

Therefore from these teachings, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide the guide horns and traction band of Ishimoto as modified by Hori with the reinforcement configuration taught by Ono, for the purpose of increasing the durability of the traction band, reducing lateral deflection of the guide horns when engaged by the road wheels (thus reducing wear on the guide

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horns), and preventing "de-tracking" of the wheels. This would also reduce maintenance costs by providing a longer-lasting and durable traction band.

The road wheels 6 of Hori would be positioned over the stabilizing portions 61 of Ono when the traction band 7 (of Ishimoto) is mounted on the vehicle.

Response to Arguments

5. Applicant's arguments filed 12 February 2007 have been fully considered but they are not persuasive. The Applicant argues that Hori does not show stabilizing portions underneath the tensile cords, and does not show the reinforcing portion with an inverted V shape. It should be noted that Hori was only used to teach the use of "road wheels" (i.e. support rollers). The Ono reference was used to teach the above structure.

The Applicant refers to testing done regarding certain physical features of the invention (namely stabilizing portions beneath tensile cords, resilient reinforcing members, and the inverted V-shape of the reinforcing members) however does not provide any evidence (in the forms of declarations or affidavits under 35 USC 1.131 or 1.132) proving the criticality of these features. Furthermore, the Ono reference teaches these features.

The second paragraph of page 9 of the arguments contains matters of opinion (see line 6), which are mere speculation without corroborating evidence.

6. In response to applicant's argument that Ishimoto is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or,

if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, the traction band of Ishimoto would be capable of functioning on more than just toy vehicles.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason R. Bellinger whose telephone number is 571-272-6680. The examiner can normally be reached on Mon - Thurs (9:00-4:00).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Morano can be reached on 571-272-6684. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jason R Bellinger
Primary Examiner
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A handwritten signature in black ink, appearing to be 'JRB', with a long, sweeping vertical line extending downwards from the signature.